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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/085,072	03/01/2002	Bozidar Ferek-Petric	P-8158.02 DIV1	1422

27581 7590 07/12/2006

MEDTRONIC, INC.
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EXAMINER

OROEZA, FRANCES P

ART UNIT	PAPER NUMBER
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3766

DATE MAILED: 07/12/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/085,072	Applicant(s) FEREK-PETRIC, BOZIDAR	
	Examiner Frances P. Oropeza	Art Unit 3766	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 4/17/06 (RCE) and 3/27/06 (Amendment).
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 35 a and 37-39 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 35 and 37-39 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Request for Continued Examination

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. The Applicant's submission filed on 4/17/06 has been entered.

Claim Rejections - 35 USC § 102

2. Claims 35 and 37-39 are rejected under 35 U.S.C. 102(b) as being anticipated by Soykan et al. (US 6206914).

Soykan et al. teach an implantable multi-chamber pacing system with drug treatment that monitors ECG signals and coronary sinus blood flow signals to detect and treat ischemia (fig. 5; col. 1 @ 23-39; col. 2 @ 30-40; col. 3 @ 23-30; col. 5 @ 21-36; col. 13 @ 46-64; col. 16 @ 23-46).

Soykan et al. teach incorporating the stimulation device of US 5702427 to Ecker et al. (col. 16 @ 53-58), hence including in the instant invention atrial and ventricular sensing means and signals (fig. 9 – Ecker et al.) and pacemaker and defibrillator type IPGs (implantable pulse generators) (col. 6 @ 21-27).

The Soykan et al. system includes sensing elements (leads) coupled to the cardiac rhythm management device to detect changes in the physiological properties (the properties read as the

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level of blood flow (blood flow velocity), the atrial signals, and the ventricular signals), the detected changes serving to trigger release of the therapeutic agent (col. 3 @ 14-30; col. 4 @ 66 – col. 5 @ 4; col. 5 @ 21-36). One disclosed embodiment is a lead located in the conorary sinus, upstream of the coronary arteries, to provide local feedback to the device to control local delivery of the drug treatment (col. 4 @ 66 – col. 5 @ 4; col. 5 @ 48-52; col. 8 @ 45-55; col. 16 @ 42-46). This lead contains a means for producing a signal representative of flood flow velocity, an acoustic Doppler sensor (col. 16 @ 42-53).

As to claim 38, the telemetry system used in the instant invention, a Medtronics Model 9790 programmer (specification – page 5, line 25), is the same programmer used in the Soykan et al. reference (col. 15 @ 18), hence Soyken et al. teach “remotely programming the signal processing means via a wireless telemetry link”.

Statutory Basis

3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Conclusion

Any inquiry concerning this or earlier communications from the examiner should be directed to Fran Oropeza whose telephone number is (571) 272-4953. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert E. Pezzuto can be reached on (571) 272-6996. The fax phone numbers for the organization where this application or proceeding is assigned is (571) 273-8300 for regular and After Final communications.

Frances P. Oropeza
Patent Examiner
Art Unit 3762

JPO
1/8/06


Robert E. Pezzuto
Supervisory Patent Examiner
Art Unit 3762